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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Re. Appln: John Underbrink, et al
Serial No.: 10/652,112
Filed: August 29, 2003
For: FOLDING SINK
Confirmation No.: 1842
Art Unit: 3751
Examining Atty: Khoa D. Huynh
Attorney: Gerald E. Helget
Attorney Docket No.: 35249.26
Additional Fees: Charge to Deposit Account 02-3732

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Sir:

TRANSMITTAL COVER LETTER

Enclosed for filing, please find the following:

1. Reply to Examiner's Answer (5 pgs.); and
2. Postcard receipt.

Respectfully submitted,

Date: 21 Dec 05

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CERTIFICATE OF MAILING

I hereby certify that this document, along with the documents referenced above, are being deposited with the United States Postal Service as First Class Mail, in an envelope addressed to: Mail Stop Appeal Brief - Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date indicated below.

By: Gerald E. Helget
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REPLY TO EXAMINER'S ANSWER

Applicant, by his attorney, submits one copy of this Reply to Examiner's Answer, pursuant to the Examiner's Answer mailed November 2, 2005 and 37 C.F.R. § 1.192 and §41.41 in further of the Appeal, the notice of which was filed with the United States Patent and Trademark Office on January 20, 2005, and further in response to the Notice of Non-Compliant Appeal Brief mailed June 17, 2005 and Communication Regarding Appeal dated August 23, 2005.

CERTIFICATE OF MAILING

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By Gerald E. Helget
Date 21 Dec 05

ARGUMENT

(a) Response to Examiner's Arguments

A. The Applicable Law under 35 U.S.C. §102(b)

A single prior art reference anticipates a claimed invention only if it discloses each and every claim element. *Structural Rubber Prod. Co. v. Park Rubber Co.*, 749 F.2d 707, 223 USPQ 1264 (Fed. Cir. 1984).

B. Claim 1 is not anticipated by Polakoff.

Polakoff does not disclose: "a faucet assembly comprising a discharge neck coupled to a faucet housing, the faucet housing movably supported on the basin and selectively rotatable between an upright position wherein at least a portion of the discharge neck protrudes from the basin such that in operation the discharge neck discharges a stream of water receivable in the basin, and a folded position wherein the faucet assembly is received within the basin for storage."

As claimed, the "faucet assembly" is the "discharge neck coupled to the faucet housing." Furthermore, the faucet housing must be "movably supported on the basin." In addition, the faucet assembly "must be received within the basin for storage."

As seen in Figs. 4 and 5 of Polakoff, the faucet assembly F, H, H' is not supported on the basin d, but above the basin D on the horizontal partition b. As seen in Fig. 6, the faucet assembly F, H, H' is not received within the basin D (part F and most of H remain above the basin). Claim 1 is therefore allowable.

The Examiner states, incorrectly, that the basin extends from the drain to L'. Applicant disagrees. L' is not part of the basin. It is part of the writing desk. Page 2 lines 1-5. Furthermore, Polakoff expressly states that the basin D is attached below the horizontal partition b. Page 1 lines 60-70. Thus, the basin does not extend from the drain to L'. Therefore, as Applicant stated in the Appeal Brief, the faucet assembly is not supported on the basin as claimed, but on the top of the horizontal partition b. Further, as previously stated, the faucet assembly is not received within the basin, because part of the faucet assembly extends above the basin.

C. Claim 2 is not anticipated by Polakoff.

Claim 2 contains additional elements or limitations beyond allowable claim 1 and is separately patentable and therefore does not stand or fall together with claim 1. Furthermore, the Claim 2 is therefore allowable.

D. Claim 3 is not anticipated by Polakoff

Polakoff does not disclose a "basin" that "has a top portion which defines a plane and wherein the faucet assembly is located completely below the plane when in the folded position." Specifically as to claim 3, it is quite clear that the faucet assembly of Polakoff is not located completely below the plane of the basin's top portion when in a folded position (see Fig. 6). Again, the basin D has a top portion below the horizontal partition b, and the faucet assembly F, H, H' is not located completely below a plane formed by the horizontal partition b. Therefore, claim 3 contains additional elements or limitations beyond allowable claim 1 and is separately patentable and therefore does not stand or fall together with claim 1. Claim 3 is therefore allowable.

E. Claim 5 is not anticipated by Polakoff

Polakoff does not disclose a "basin" that "further comprises a retainer that releasably retains the faucet assembly in the folded position." The retainer O holds the writing desk LL' not the faucet assembly F, H, H'. Therefore, claim 5 contains additional elements or limitations beyond allowable claim 1 and is separately patentable and therefore does not stand or fall together with claim 1. Claim 5 is therefore allowable.

F. Claim 9 is not anticipated by Polakoff

As to claim 9, Polakoff does not show the faucet assembly attached to the basin, but above the basin as previously discussed. Furthermore, Polakoff does not disclose a faucet housing supporting the discharge neck on the basin. Claim 9 is therefore allowable.

G. Claim 10 is not anticipated by Polakoff

Claim 10 of the present invention discloses a drain. Polakoff does not disclose a drain, rather a waste-water receptacle. Therefore, claim 10 contains additional elements or limitations beyond allowable claim 9 and is separately patentable and therefore does not stand or fall together with claim 1. Claim 10 is therefore allowable.

H. Claim 11 is not anticipated by Polakoff

Polakoff does not disclose a "basin" that "further comprises a retainer that releasably retains the faucet assembly in the folded position." The retainer O holds the writing desk LL' not the faucet assembly F, H, H'. Therefore, claim 11 contains additional elements or limitations beyond allowable claim 9 and is separately patentable and therefore does not stand or fall together with claim 9. Claim 11 is therefore allowable.

I. Claim 12 is not anticipated by Polakoff

Polakoff does not disclose a "retainer" which "comprises one or more detents on the faucet housing." The retainer O holds the writing desk LL' not the faucet assembly F, H, H'. Therefore, claim 12 contains additional elements or limitations beyond allowable claim 11 and is separately patentable and therefore does not stand or fall together with claim 11. Claim 12 is therefore allowable.

J. Claim 13 is not anticipated by Polakoff

Polakoff does not disclose "a flow control valve supporting in the faucet housing." There is no faucet housing supporting the discharge neck on the basin (see claim 9). Therefore, there cannot be a flow control valve supported in the faucet housing. Therefore, claim 13 contains additional elements or limitations beyond allowable claim 9 and is separately patentable and therefore does not stand or fall together with claim 9. Claim 13 is therefore allowable.

K. Claim 14 is not anticipated by Polakoff

There is no faucet housing supporting the discharge neck on the basin (see claim 9). Therefore, there cannot be a flow control valve supported in the faucet housing. (see claim 13) Therefore, Polakoff does not disclose "a flow control valve" which "comprises a connector for receiving the discharge neck" within a faucet housing supported on the basin. Therefore, claim 14 contains additional elements or limitations beyond allowable claim 13 and is separately patentable and therefore does not stand or fall together with claim 13. Claim 14 is therefore allowable.

L. Claim 16 is not anticipated by Polakoff

There is no faucet housing supporting the discharge neck on the basin (see claim 9). Polakoff therefore does not disclose a "conduit for supplying liquid to the faucet housing." Further, Polakoff does not show the conduit (124) in claim 16, as illustrated in Figs. 3b and 3c. Therefore, claim 16 contains additional elements or limitations beyond allowable claim 9

and is separately patentable and therefore does not stand or fall together with claim 9. Claim 16 is therefore allowable.

M. Claim 17 is not anticipated by Polakoff

Specifically as to claim 17, it is quite clear that the faucet assembly of Polakoff is not located completely below the plane of the basin's top surface when in a folded position (see Fig. 6). Claim 17 contains additional elements or limitations beyond allowable claim 9 and is separately patentable and therefore does not stand or fall together with claim 9. Claim 17 is therefore allowable.

(b) New grounds of rejection.

The Examiner has introduced as a new ground of rejection a provisional double-patenting rejection. However, as this rejection is only provisional, no response is necessary or possible. In the event the provisional rejection matures into a non-provisional rejection, Applicant will address it.

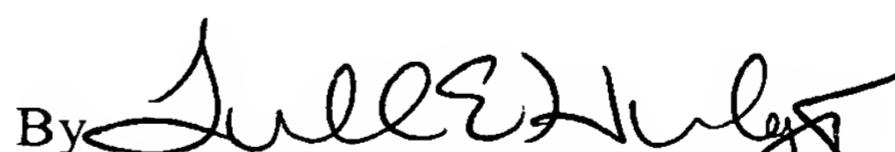
SUMMARY

For the reasons argued above, claims 1-3, 5, 9-14, 16 and 17 were not properly rejected under §102(b) as being anticipated by Polakoff.

Appellant respectfully submits that the art cited does not render the claim anticipated and the claims are patentable over the cited art. Reversal of the rejection and allowance of the pending claims are respectfully requested.

Respectfully submitted,

Dated: 21 Dec 05

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